IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE CIVIL JURISDICTION

WRIT PETITION NO.5593 OF 2005

Vasant V.Dandekar).. Petitioner

Versus

Ramprasad Sukhdeo Gupta (since deceased)
Smt.Pushpa R. Gupta and others).. Respondents

Mr. M.S. Lagu for the Petitioner.

Mr. S.S. Shah for the Respondents.

CORAM: SMT.NISHITA MHATRE, J.

DATED: 10TH OCTOBER 2005

P.C.:

. The order challenged is passed by the trial Court on 23rd April 2005. By this order, the Petitioner was directed to deposit rent, arrears of rent at the rate of 15% per annum within two months of the date of the order. It was further directed that he should deposit the amount of Rs.92,760/- on account of repair charges. The Petitioner was also expected to deposit the accrued rent on or before the 10th day of each month till final disposal of the Suit. The Plaintiffs i.e. the Respondents herein were given the liberty to withdraw the amount. All the deposits were to be made without prejudice and the rights and contentions of the Petitioner.

2. It appears that after this order was passed, the Petitioner did not deposit any amount and instead filed a Revision Application accompanied by an application for condonation of delay. This application was dismissed on 7th June 2005. The Appellate Court was of the view that the delay was unwarranted and, therefore, discharged the notice. Accordingly, the Revision Application was dismissed. It appears that there was a delay of eight months in preferring the Revision Application which has not been condoned.

3. In view of the Petitioner violating the order of the trial Court, the Respondent tendered an application for striking off the defences of the Petitioner which was granted. That order has now been challenged in Revision by the Petitioner.

4. Heard Advocates. In my view, it would be appropriate to direct the Petitioner to deposit the entire amount of rent up-to-date along with 15% interest per annum. The Petitioner shall further deposit an amount of Rs.10,000/- towards repair charges. These deposits should be made without prejudice to the rights and contentions of the parties. Delay in filing the Revision Application must be condoned on condition that

the Petitioner deposits the abovesaid amounts within four weeks from today. In the event of such deposits being made, the trial Court will consider the Revision on merits. The Respondents are at liberty to withdraw the amounts deposited subject to the decision of the Court in Revision.

5. Writ Petition disposed of accordingly.